

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,) Case no. 3:94-cr-00044-LRH-WGC
Plaintiff,)
vs.) ORDER
DONALD LEROY HOGAN,)
Defendant.)

Before the court is Defendant's Rule 36 Motion to Correct Clerical Mistake/Error (#1340)¹ in which Defendant seeks to "correct a "MISTAKE/ERROR" which has resulted in an incorrect calculation under the Sentencing Guidelines."

While Defendant is correct that Rule 36 may be invoked at any time to correct a clerical error, the "error" he points out in his motion is in fact a challenge to the point calculation made by the U.S. Probation Office in the Presentence Investigation Report ("PSR"), and not a clerical error made by the court. Defendant contests the two points added in the PSR on page 23, paragraph 80:

At the time the instant offense was committed, the defendant was under supervision for the offense and conviction entered on 1-10-92. Pursuant to U.S.S.G. § 4A1.1(d), two points were added.

Pursuant to Federal Rule of Criminal Procedure 35(a), any such correction – one resulting from arithmetical, technical, or other clear error – must be made within fourteen (14) days after sentencing. Defendant's sentencing took place on September 16, 1996; his motion, therefore, is

¹ Refers to the court's docketing number.

1 untimely and the court shall deny it as such.

2 In addition, Defendant did present his objections to the PSR at the time of sentencing, and
3 no objection was made to paragraph 80 at that time.

4 IT IS THEREFORE ORDERED that Defendant's Rule 36 Motion to Correct Clerical
5 Mistake/Error (#1340) is DENIED.

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7 IT IS SO ORDERED.

8 DATED this 29th day of January, 2014.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE